

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

<b>In re:</b>	<b>BK 08-49784</b>
<b>Michele Gilbert</b>	<b>Chapter 7</b>
<b>Debtor(s)</b>	

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**Habbo G. Fokkena, United States Trustee**

**Plaintiff,**

**vs.**

**Adv. No.**

**Michele Gilbert**

**Defendant(s).**

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**COMPLAINT OBJECTING TO DISCHARGE**

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Habbo G. Fokkena, United States Trustee, Plaintiff, by and through his undersigned attorney for his complaint against Michele Gilbert, defendant, states and alleges that:

1. This complaint is filed under FED. R. BANKR. P. 7001(4) and seeks an order denying the defendants' discharge pursuant to 11 U.S.C. § 727(a)(8).
2. This court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§ 157 and 1334 and FED. R. BANKR. P. 4004. This proceeding is a core proceeding.
3. The United States Trustee has standing to commence this adversary proceeding pursuant to 28 U.S.C. § 586(a) and 11 U.S.C. § 727(c)(1).
4. The defendant is a resident of Minnesota.
5. The defendant commenced the underlying bankruptcy case on February 26, 2008 (Bankr. Case No. 08-40784). *See* Att. Ex. 1 (ECF Docket Report).
6. The defendant commenced a prior Chapter 7 bankruptcy case on May 5, 2000 (Bankr. Case No. 00-13644) in the U.S. Bankruptcy Court for the Northern District of Illinois.

The defendant received a Chapter 7 discharge in that case. *See* Att. Ex. 2 (ECF Docket Report for 00-13644).

7. The defendant disclosed the prior case on her petition, but falsely stated that the case was filed in March 2000. *See* Att. Ex. 3 (Voluntary Petition, p. 2). The March 2000 commencement date also violates Section 727(a)(8).

8. Pursuant to 11 U.S.C. § 727(a)(8) (2005), the defendant has been granted a discharge under Section 727 in a case commenced within eight years before the date of filing the petition in Bankr. Case No. 08-40784.

WHEREFORE, the Plaintiff requests that this Court enter judgment denying the defendant's discharge herein, together with such other and further relief as the Court deems just.

Dated: February 28, 2008

HABBO G. FOKKENA  
UNITED STATES TRUSTEE  
REGION 12

BY: /s/ Sarah J. Wencil  
Sarah J. Wencil  
Trial Attorney  
Office of the United States Trustee  
Suite 1015 U.S. Courthouse  
300 S. 4<sup>th</sup> Street  
Minneapolis, MN 55415  
(612) 664-5504  
IA ATTY NO. 14014

# EXHIBIT 1

**US Bankruptcy Court [LIVE]  
District of Minnesota (Minneapolis)  
Bankruptcy Petition #: 08-40784**

*Assigned to:* Chief Judge Nancy C Dreher

*Date Filed:* 02/26/2008

Chapter 7

Voluntary

No asset

***Debtor***

**Michele Gilbert**

17556 96th Avenue North

Maple Grove, MN 55311

SSN: xxx-xx-2109

represented by **Alan J Albrecht**

7066 Brooklyn Blvd

Brooklyn Center, MN 55429

763-537-6251

Email:

ajaatty@usinternet.com

***U.S. Trustee***

**US Trustee**

1015 US Courthouse

300 S 4th St

Minneapolis, MN 55415

612-664-5500

Filing Date	#	Docket Text
02/26/2008	<u>1</u>	Chapter 7 voluntary petition re: Michele Gilbert. Summary of schedules and statistical summary of certain liabilities, Schedules A-J - Forms 6A - 6J, Declaration concerning debtors schedules - Form 6, Statement of financial affairs - Form 7, Ch 7 individual debtors statement of intention - Form 8, Statement of compensation by attorney for debtor - Local Form 1007-1, Statement of current monthly income and means-test calculation (Form 22A). Fee Amount \$299.00 (Albrecht, Alan) (Entered: 02/26/2008)
02/26/2008	<u>2</u>	Certificate of credit counseling filed by Michele Gilbert. (Albrecht, Alan) (Entered: 02/26/2008)
02/26/2008	<u>3</u>	Signature declaration filed by Michele Gilbert. (Albrecht, Alan) (Entered: 02/26/2008)
02/26/2008	<u>4</u>	Statement of anticipated changes in income or expenses filed by Michele Gilbert. (Albrecht, Alan) (Entered: 02/26/2008)
02/26/2008	<u>5</u>	Debtor's income records filed by Michele Gilbert. (Albrecht, Alan) (Entered: 02/26/2008)

PACER Service Center			
Transaction Receipt			
02/27/2008 09:41:52			
PACER Login:	ux2539	Client Code:	
Description:	Docket Report	Search Criteria:	08-40784 Fil or Ent: filed Doc From: 0 Doc To: 99999999 Term: included Format: HTML
Billable Pages:	1	Cost:	0.08

## EXHIBIT 2

**CLOSED**

**U.S. Bankruptcy Court  
Northern District of Illinois (Chicago)  
Bankruptcy Petition #: 00-13644**

*Assigned to:* Hon. Ronald Barliant  
Chapter 7  
Voluntary  
No asset

*Date Filed:* 05/05/2000  
*Date Terminated:* 08/30/2000  
*Date Discharged:* 08/25/2000

**Debtor**

**Michele Gilbert**  
15311 S Kilpatrick Ave #12  
Oak Forest, IL 60452  
SSN: xxx-xx-2109

represented by **Marc C Scheinbaum**  
Scheinbaum & West, LLC  
P. O. Box 5009  
Vernon Hills, IL 60061-5009  
847-636-4676  
Fax : 847-362-1665  
Email: amerlincat@aol.com

**Trustee**

**Richard J Mason**  
McGuire Woods LLP  
77 West Wacker Drive  
Suite 4100  
Chicago, IL 60601  
312 750-3527 Ext. 3527

<b>Filing Date</b>	<b>#</b>	<b>Docket Text</b>
05/05/2000	<u>1</u>	VOLUNTARY petition under chapter 7 [WI] (Entered: 05/05/2000)
05/12/2000	<u>2</u>	NOTICE of Meeting of Creditors and Deadlines with Certificate of Service [JA] (Entered: 05/15/2000)
06/28/2000	<u>3</u>	FINAL Report of Trustee in No Asset Case [JA] (Entered: 06/29/2000)
06/28/2000	<u>4</u>	AMENDMENT to Schedule C [JA] (Entered: 06/29/2000)
08/25/2000	<u>5</u>	DISCHARGE of Debtor with Certificate of Service [JA] (Entered: 08/30/2000)
08/30/2000	<u>6</u>	ORDER CLOSING CASE AND DISCHARGING TRUSTEE [JA] (Entered: 08/30/2000)

PACER Service Center			
Transaction Receipt			
02/27/2008 09:44:46			
<b>PACER Login:</b>	ux2539	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	00-13644 Fil or Ent: filed From: 1/1/2000 To: 2/27/2008 Doc From: 0 Doc To: 99999999 Term: included Format: HTML
<b>Billable Pages:</b>	1	<b>Cost:</b>	0.08



## EXHIBIT 3

United States Bankruptcy Court District of Minnesota				Voluntary Petition	
Name of Debtor (if individual, enter Last, First, Middle): <b>Gilbert, Michele</b>			Name of Joint Debtor (Spouse) (Last, First, Middle):		
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names):			All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):		
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): <b>2109</b>			Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all):		
Street Address of Debtor (No. & Street, City, State & Zip Code): <b>17556 - 96th Avenue North Maple Grove, MN</b>			Street Address of Joint Debtor (No. & Street, City, State & Zip Code):		
ZIPCODE <b>55311</b>			ZIPCODE		
County of Residence or of the Principal Place of Business: <b>Hennepin</b>			County of Residence or of the Principal Place of Business:		
Mailing Address of Debtor (if different from street address):			Mailing Address of Joint Debtor (if different from street address):		
ZIPCODE			ZIPCODE		
Location of Principal Assets of Business Debtor (if different from street address above):					
ZIPCODE					
<b>Type of Debtor</b> (Form of Organization) (Check one box.) <input checked="" type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)		<b>Nature of Business</b> (Check one box.) <input type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101(51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Other  <b>Tax-Exempt Entity</b> (Check box, if applicable.) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).		<b>Chapter of Bankruptcy Code Under Which the Petition is Filed</b> (Check one box.) <input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding  <b>Nature of Debts</b> (Check one box.) <input checked="" type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input type="checkbox"/> Debts are primarily business debts.	
<b>Filing Fee</b> (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached  <input type="checkbox"/> Filing Fee to be paid in installments (Applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A.  <input type="checkbox"/> Filing Fee waiver requested (Applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.			<b>Chapter 11 Debtors</b> <b>Check one box:</b> <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). <b>Check if:</b> <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts owed to non-insiders or affiliates are less than \$2,190,000.  <b>Check all applicable boxes:</b> <input type="checkbox"/> A plan is being filed with this petition <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).		
<b>Statistical/Administrative Information</b> <input type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input checked="" type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY
<b>Estimated Number of Creditors</b> <input checked="" type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> Over 100,000					
<b>Estimated Assets</b> <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input checked="" type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1 million to \$10 million <input type="checkbox"/> \$10 million to \$50 million <input type="checkbox"/> \$50 million to \$100 million <input type="checkbox"/> \$100 million to \$500 million <input type="checkbox"/> \$500 million to \$1 billion <input type="checkbox"/> More than \$1 billion					
<b>Estimated Liabilities</b> <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input checked="" type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1 million to \$10 million <input type="checkbox"/> \$10 million to \$50 million <input type="checkbox"/> \$50 million to \$100 million <input type="checkbox"/> \$100 million to \$500 million <input type="checkbox"/> \$500 million to \$1 billion <input type="checkbox"/> More than \$1 billion					

<b>Voluntary Petition</b> <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): <b>Gilbert, Michele</b>	
<b>Prior Bankruptcy Case Filed Within Last 8 Years</b> (If more than two, attach additional sheet)			
Location Where Filed: <b>Chicago, Illinois</b>	Case Number: <b>00-13644</b>	Date Filed: <b>3/2000</b>	
Location Where Filed: <b>N/A</b>	Case Number:	Date Filed:	
<b>Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor</b> (If more than one, attach additional sheet)			
Name of Debtor: <b>None</b>		Case Number:	
District:		Date Filed:	
Relationship:		Judge:	
<b>Exhibit A</b> (To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)  <input type="checkbox"/> Exhibit A is attached and made a part of this petition.		<b>Exhibit B</b> (To be completed if debtor is an individual whose debts are primarily consumer debts.)  I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by § 342(b) of the Bankruptcy Code.  <div style="display: flex; justify-content: space-between;"> <span><b>X /s/ Alan J. Albrecht</b></span> <span><b>2/26/08</b></span> </div> <div style="display: flex; justify-content: space-between; font-size: small;"> <span>Signature of Attorney for Debtor(s)</span> <span>Date</span> </div>	
<b>Exhibit C</b> Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?  <input type="checkbox"/> Yes, and Exhibit C is attached and made a part of this petition. <input checked="" type="checkbox"/> No			
<b>Exhibit D</b> (To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.) <input checked="" type="checkbox"/> Exhibit D completed and signed by the debtor is attached and made a part of this petition.  If this is a joint petition: <input type="checkbox"/> Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.			
<b>Information Regarding the Debtor - Venue</b> (Check any applicable box.) <input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. <input type="checkbox"/> There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District. <input type="checkbox"/> Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.			
<b>Certification by a Debtor Who Resides as a Tenant of Residential Property</b> (Check all applicable boxes.) <input type="checkbox"/> Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)  <div style="text-align: center; margin-bottom: 10px;">         _____          (Name of landlord or lessor that obtained judgment)       </div> <div style="text-align: center; margin-bottom: 10px;">         _____          (Address of landlord or lessor)       </div> <input type="checkbox"/> Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and <input type="checkbox"/> Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition. <input type="checkbox"/> Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).			

**Voluntary Petition***(This page must be completed and filed in every case)*

Name of Debtor(s):

**Gilbert, Michele****Signatures****Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under Chapter 7] I am aware that I may proceed under chapter 7, 11, 12 or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.

[If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

**X /s/ Michele Gilbert**

Signature of Debtor

**Michele Gilbert****X**

Signature of Joint Debtor

Telephone Number (If not represented by attorney)

**February 26, 2008**

Date

**Signature of a Foreign Representative**

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only **one** box.)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. § 1515 are attached.

☐ Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

**X**

Signature of Foreign Representative

Printed Name of Foreign Representative

Date

**Signature of Attorney\*****X /s/ Alan J. Albrecht**

Signature of Attorney for Debtor(s)

**Alan J. Albrecht 191826**

Printed Name of Attorney for Debtor(s)

**Albrecht & Associates, LTD**

Firm Name

**7066 Brooklyn Boulevard**

Address

**Brooklyn Center, MN 55429**

Telephone Number

**February 26, 2008**

Date

\*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

**Signature of Debtor (Corporation/Partnership)**

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

**X**

Signature of Authorized Individual

Printed Name of Authorized Individual

Title of Authorized Individual

Date

**Signature of Non-Attorney Petition Preparer**

I declare under penalty of perjury that: 1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; 2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h) and 342(b); 3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social Security Number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

Address

**X**

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose social security number is provided above.

Date

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

*A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.*

## **VERIFICATION**

I, Sarah J. Wencil, a trial attorney for the United States Trustee, the petitioner herein, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on February 28, 2008

/s/ Sarah J. Wencil  
Sarah J. Wencil  
Trial Attorney  
Suite 1015 U.S. Courthouse  
300 S. 4<sup>th</sup> Street  
Minneapolis, MN 55415  
(612) 664-5504  
IA ATTY NO. 14014